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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,574	09/26/2001	Karen Jeanne Pelletier	8285/455	5697

7590  
BRINKS HOFER  
GILSON & LIONE  
P.O. Box 10395  
Chicago, IL 60610

06/19/2003

EXAMINER

SMITH, CREIGHTON H

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 06/19/2003

b

Please find below and/or attached an Office communication concerning this application or proceeding.

GU

# Office Action Summary

Application No.

966574

Applicant(s)

Pelletier et al

Examiner

Smith, C.H.

Group Art Unit

2645

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 17-37 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 17-37 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 17-37 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6327354. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the application could have easily been incorporated with the claims of the patent..

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Mckendry et al

or Silverman. } 5875240

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Mckendry et al disclose a telecommunications system whereby a user (the calling party) only has to know one telephone number of the called party, which allows that user to dial that one phone number and then provides the user with a menu of options, col. 8, line 30, where to route the call, col. 8, lines 26-38. Some of the routing options McKendry et al system provides to the user: routing to another local or remote phone, routing to a cell phone, routing the call to a home office, routing to an extension on the individual's premises, leaving a message on voicemail. Also, McKendry's system, through the use of a call manager (a server) provides the call/user options to route the call to local and remote extensions, col. 5, lines 15-21 & col. 9, lines 55-60. By routing the phone call from the user (the 1st phone call) to a remote or local extension constitutes the 2nd phone call. Also, see col. 10, lines 15-24 & lines 36-44. Inherently McKendry's system will allow the routing of a phone call to any plurality of secondary locations/extensions such as a member of the user's family to a 1st location other than the residence, i.e., a family member's cell phone. Hence the caller has to know only the primary telephone number for the user's premises, but yet multiple telephone instruments that may each have an individual telephone number are accessed, col. 12, lines 37-42. The user is allowed to make unlimited transfers after a call is taken, col. 12, lines 52-57. McKendry et al disclose in col. 37, lines 20-30, that unlike prior art systems the user/caller is provided options to select how the call is processed. One option being

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that the user can "call any other telephone instrument that can be reached via the PSN 90" (Public Switched Telephone Network). If a user is calling from a 1st LATA, e.g. Washington, and wants to call Dallas which is in the 2nd LATA an IXC will have to be used to transport the call.

Any inquiry concerning this communication should be directed to C Smith at telephone number 308-2488.



**Creighton Smith**  
**Primary Examiner**

Creighton Smith

02 JUNE '03

1st phone call is placed to a 3rd phone #  
NOT corresponding to any of the plurality of  
destination options